

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SIGMA GAS CORPORATION	)	
	)	
COMPLAINANT	)	
	)	CASE NO.
V.	)	2004-00018
	)	
B.T.U. GAS COMPANY, INC.	)	
	)	
DEFENDANT	)	

O R D E R

On October 8, 2009, David L. Lykins, as Chairman of the Trustees of Salyersville First Baptist Church ("First Church"), a not-for-profit corporation,<sup>1</sup> filed a motion for intervention in this proceeding. 807 KAR 5:001, Section 3(8), states that any person wishing to become a party to a proceeding may request intervention by timely motion. We will deny the motion for intervention as untimely.

Ordinarily, we would reject this filing and return it to the entity based upon the following:

1. The application is signed by David L. Lykins, on behalf of First Church.
2. On information and belief, Mr. Lykins is not an attorney licensed to practice law in Kentucky.

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<sup>1</sup> The Kentucky Secretary of State lists the name as: First Baptist Church, Salyersville, Kentucky, Inc.

No person may engage in the practice of law in Kentucky without first obtaining a license to practice.<sup>2</sup> The practice of law is:

[A]ny service rendered involving legal knowledge or legal advice, whether of representation, counsel or advocacy in or out of court, rendered in respect to the rights, duties, obligations, liabilities, or business relations of one requiring the services.<sup>3</sup>

It includes, as Kentucky's highest court held in Kentucky State Bar Association v. Henry Vogt Machine Co., 416 S.W.2d 727 (Ky. 1967), the representation of a corporation before a state administrative agency.<sup>4</sup>

However, we will rule upon the motion to intervene because it is our belief that, whether or not First Church is represented by counsel, the ruling on the motion would be the same.

On June 30, 2009, an Order was entered on the complaint of Sigma Gas Corporation, now Cow Creek Gas, Inc. ("Cow Creek"), against B.T.U. Gas Company, Inc. ("BTU"). In that Order, BTU was directed to file a list of "affected customers" and Cow Creek was required to notify those customers of its intention to serve them with natural gas. BTU filed the required list, but Cow Creek objected to serving some customers on the list, "Dixie Church"<sup>5</sup> being one. On September 11, 2009, the Commission modified the June 30, 2009 Order to require Cow Creek to serve all

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<sup>2</sup> Kentucky Supreme Court Rule 2.100.

<sup>3</sup> Kentucky Supreme Court Rule 3.020.

<sup>4</sup> Administrative Case No. 249, Practice Before the Commission by Attorneys Non-Licensed in the Commonwealth of Kentucky (Ky. PSC June 15, 1981) at 2.

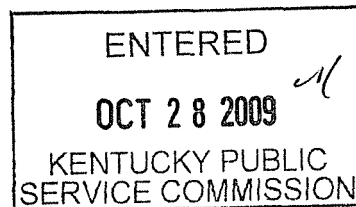
<sup>5</sup> In the motion for intervention, First Church assumes it is identified as "Dixie Church."

affected customers and required both parties to give notice to the affected customers. Both of those Orders are now final, pursuant to KRS 278.410, and the case is closed.<sup>6</sup>

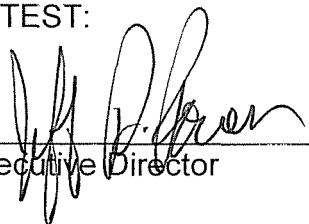
Based on the motion, and being otherwise sufficiently advised, the Commission finds that the motion of First Church is not timely because this matter has been closed. Therefore, the request to intervene by First Church should be denied as untimely.

The Commission, being sufficiently advised, HEREBY ORDERS that the motion of First Church for intervention is denied.

By the Commission



ATTEST:

  
\_\_\_\_\_  
Executive Director

<sup>6</sup> While First Church may not proceed in this case, it may wish to retain counsel and come before the Commission in a new proceeding pursuant to KRS 278.260.

Honorable Karen Chrisman  
Attorney at Law  
McBrayer, McGinnis, Leslie & Kirkland PLLC  
305 Ann Street  
Suite 308  
Frankfort, KY 40601

Honorable W. Duncan Crosby III  
Attorney at Law  
Stoll Keenon Ogden, PLLC  
2000 PNC Plaza  
500 W Jefferson Street  
Louisville, KY 40202-2828

Honorable John N Hughes  
Attorney at Law  
124 West Todd Street  
Frankfort, KY 40601

Jerome A Kanney  
President  
Cow Creek Gas, Inc.  
P. O. Box 3385  
Pikeville, KY 41502

Richard Williams  
Operations Manager  
B.T.U. Gas Company, Inc.  
P. O. Box 707, Oakley Road  
Salyersville, KY 41465